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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/629,949	08/01/2000	Naochika Kogure	HOS-57	6990

7590 09/09/2003
Sherman & Shalloway
PO Box 788
Alexandria, VA 22313

EXAMINER

PATTERSON, MARC A

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 09/09/2003

17

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/629,949

Applicant(s)

KOGURE ET AL.

Examiner

Marc A Patterson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 12-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 12-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

WITHDRAWN REJECTIONS

1. The 35 U.S.C. 112, second paragraph rejections of Claims 1 – 8 and 12 – 15 and 35 U.S.C. 103(a) rejection of Claims 1 – 8 and 12 – 15 as being unpatentable over Sugawara et al (U.S. Patent No. 5,714,227) in view of Nishibori et al (U.S. Patent No. 5,801,205) and Sasaki et al (U.S. Patent No. 5,602,223), of record on page 2 of the previous Action, are withdrawn.

NEW REJECTIONS

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1 – 8 and 12 – 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recites the limitation "inner surfaces" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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5. Claims 1 – 2, 4 – 7 and 13 – 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Adachi et al (U.S. Patent No. 4,504,534).

With regard to Claims 1 – 2, 4 – 7 and 13 – 15, Sugawara et al disclose an article (an automobile bumper, therefore a shock absorber; column 2, lines 61 – 62) comprising a foamed polypropylene resin layer (column 2, lines 60 – 68) having a density of 25 to 400 kilograms per cubic meter (column 2, lines 46 – 51) and an unfoamed polypropylene resin layer provided on the surface of the foamed polypropylene resin layer (column 2, lines 60 – 68). With regard to the claimed aspect of the foamed polypropylene having a melt tension and melt flow rate satisfying the first claimed relationship, and the unfoamed polypropylene having a melt tension and melt flow rate satisfying the second claimed relationship, both the first and second layers comprise polypropylene, as discussed above; the property of the foamed polypropylene having a melt tension and melt flow rate satisfying the first claimed relationship, and the unfoamed polypropylene having a melt tension and melt flow rate satisfying the second claimed relationship is therefore inherent to Adachi et al. With regard to the claimed aspect of the article being ‘molded from a mulilayer – foamed parison’ and the polypropylene resin layers being ‘formed from a first raw resin’ and ‘formed from a second raw resin,’ the scope of the claims falls within the limitations of Adachi et al as discussed above. The method of making the article (product – by – process) is given little patentable weight.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3, 8 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adachi et al (U.S. Patent No. 4,504,534).

Adachi et al disclose an article comprising foamed and unfoamed polypropylene layers as discussed above. With regard to Claims 3, 8 and 12, Adachi et al fail to disclose an unfoamed polypropylene layer having a thickness of 100 μm to 10 mm, and a skin layer formed on the outer side of the unfoamed polypropylene resin layer. However, Adachi et al disclose one unfoamed polypropylene layer, as discussed above, the layer having a thickness of at least 1% of the thickness of the foamed resin layer (an unfoamed layer covers the surface; column 2, lines 60 – 68). Therefore, the number of unfoamed layers and the thicknesses of the layers would be readily determined through routine optimization by one having ordinary skill in the art depending on the desired end use of the product. It therefore would be obvious for one of ordinary skill in the art to vary the number of unfoamed layers and the thicknesses of the layers, since the number of unfoamed layers and the thicknesses of the layers would be readily determined through routine optimization by one having ordinary skill in the art depending on the desired end result as shown by Adachi et al, in the absence of unexpected results. *In re Boesch and Slaney*, 205 USPQ 215 (CCPA 1980).

ANSWERS TO APPLICANT'S ARGUMENTS

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8. Applicant's arguments regarding the 35 U.S.C. 112, second paragraph rejections of Claims 1 – 8 and 12 – 15 and 35 U.S.C. 103(a) rejection of Claims 1 – 8 and 12 – 15 as being unpatentable over Sugawara et al (U.S. Patent No. 5,714,227) in view of Nishibori et al (U.S. Patent No. 5,801,205) and Sasaki et al (U.S. Patent No. 5,602,223), of record on page 2 of the previous Action, have been considered and have been found to be persuasive. The rejections are therefore withdrawn. The new 35 U.S.C. 112 second paragraph rejection of Claims 1 – 8 and 12 – 15, 35 U.S.C. 102(b) rejection of Claims 1 – 2, 4 – 7 and 13 – 15 as being anticipated by Adachi et al (U.S. Patent No. 4,504,534) and 35 U.S.C. 103(a) rejection of Claims 3, 8 and 12 as being unpatentable over Adachi et al (U.S. Patent No. 4,504,534) above are directed to amended Claims 1 – 8 and 12 – 15.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the

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advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Patterson, whose telephone number is (703) 305-3537. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by phone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached at (703) 308-4251. FAX communications should be sent to (703) 872-9310. FAXs received after 4 P.M. will not be processed until the following business day.

Marc A. Patterson, PhD.

Marc Patterson
Art Unit 1772

Harold Pyon
HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772 *9/3/03*